

# MINUTES OF THE SOLID WASTE BOARD MEETING

Indiana Government Center South  
402 West Washington Street  
Conference Center Room A  
Indianapolis, Indiana  
March 20, 2001

The meeting was called to order by Chairperson Jeffry Carter. Those present for all or part of the meeting were:

Mr. Marlin Chambers  
Ms. Linda Cosgrove  
Mr. Rick Dyar  
Mr. Charles Himes  
Mayor William Graham  
Mr. Jeff Langbehn  
Ms. Frona Powell  
Mr. Howard Cundiff (Proxy, Indiana State Department of Health)  
Mr. Thomas Hohman (Proxy, Department of Natural Resources)  
Ms. Melanie Darke (Proxy, Lieutenant Governor's Office)  
Ms. Deborah Albright, Board Counsel

A quorum was present.

In addition, the following IDEM staff members were present for all or part of the meeting:

Mr. Bruce Palin, Deputy Assistant Commissioner, Office of Land Quality  
Ms. Lynn West, Operations and Information Branch, Rules, Planning and Outreach  
Mr. Steve Mojonnier, Operations and Information Branch, Rules, Planning and Outreach  
Mr. Bruce Oertel, Branch Chief, Remediation Services Branch  
Mr. John Hale, Solid Waste Permits Branch  
Mr. Craig Barker, Chemist, Science Services Branch

1. Chairperson Carter opened the meeting at 1:35 p.m., and asked for additions or corrections to the minutes of the January 16, 2001 Solid Waste Management Board meeting. Mr. Rick Dyar indicated that on page 3, paragraph 3, the phrase "primary adoption" should be changed to "preliminary adoption". There being no further corrections, Mayor William Graham moved for approval of the minutes, and Mr. Marlin Chambers seconded. The motion passed unanimously.

APPROVAL OF  
MINUTES
2. Chairperson Carter then asked Mr. Bruce Palin to address the Board. Mr. Palin updated the Board about the Solid Waste Processing Rule. He first reviewed the history of the rulemaking action. The discussions on the rule began in 1995 with several different types of situations and problems being addressed. Multiple meetings were held and attempts were made to address all of the concerns raised by the
 

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many participants. Mr. Palin said that following the November Solid Waste Management Board meeting, it became clear that there were more issues to be addressed than those originally identified. Finally, after all the input was considered and taking into account the opinion that sufficient means were already in place to deal with the small number of facilities that were not managing waste properly, it was decided not to move forward with the Solid Waste Processing Rule in its current form. Mr. Palin said that there were three provisions identified under the sunset readoption notice, and that only those three provisions will be going forward in rulemaking. Those three items are in the areas of duration of permits, demonstration of need and quarterly tonnage reports. In conclusion, Mr. Palin said that the Solid Waste Processing Rule presented too large a task to accomplish in a reasonable period of time. Future plans include dealing with smaller focused changes that would be easier for staff and interested parties to manage.

In response to Board question, Mr. Palin said that the use of the nonrule policy documents will help deal with some areas of rule interpretations. He did say that there will be a future rulemaking relative to minor modifications or insignificant modifications to processing permits but there are not yet any specific time frames. Chairperson Carter stated for record that he wanted the agency to encourage involvement of the regulated community as much as possible. Mr. Palin then asked Ms. Lynn West to address the Board.

Ms. West said that the LSA #95-8 will still be used for the three sections from the Solid Waste Processing Rule designated for readoption. Ms. West then distributed the monthly Rulemaking Projects Calendar and mentioned that no new rulemaking actions had been added to the list. She said that three new rules are in the works, the Underground Storage Tank Change Rule, the Manure Processing and Composting Rule, and also the 2001 Hazardous Waste Update Rule. Ms. West announced that Mr. Himes has offered the use of his facility training room in Elkhart for the October 16, 2001 Board meeting. She said that there are several types of facilities around the area that would be interesting to tour. Recycling and sorting facilities were mentioned. Ms. West said that Mr. C. Clinton Fisher, the agriculture representative, resigned and that Mr. Mike Carnahan had been appointed to fill the position. Finally, Ms. West introduced Mr. Lou McFadden to the Board. Mr. McFadden is a new rulewriter in the Office of Land Quality, Rules, Planning and Outreach Section. Ms. West then introduced Mr. John Hale to the Board, who spoke about the process for solid waste permits.

Mr. Hale explained that he worked in the Solid Waste Permits Section. In addition to solid waste permitting of landfills and solid waste processing facilities, the Solid Waste Permits Section also does confined feeding operation permits, land application of sludge permits, septic permits, etc. Mr. Hale then spoke about solid waste permitting of landfills and solid waste processing facilities. He explained who needs to get a permit, what's excluded, and he reviewed the four types of permits issued. He also reviewed the application process, what does an applicant go through to get the permit. Mr. Hale then answered questions from the Board and also mentioned that there are currently 130

permitted facilities in Indiana, covering MSWLFs, transfer stations, and construction/demolition sites. Please see pages 16 through 33 for a verbatim account of Mr. Hale's presentation and response to questions.

Chairperson Carter then asked Mr. Palin to address the Board about the "minor violations" memo that was mailed in the Board packet. Mr. Palin explained that the memo was written in response to questions relative to minor violations and statutory requirements relative to minor violations. Mr. Palin reviewed the memo and said that with regard to the statute, since there are no minor violations reported, there isn't any report to issue on the subject. Please see pages 33 through 35 on the official transcript of this meeting for a verbatim account of Mr. Palin's remarks. In response to questions, Mr. Palin explained how minor violations are dealt with as opposed to major violations and enforcement actions.

Chairperson Carter then announced the following rulemaking action:

- < Preliminary Adoption - New Rules of the Board at 329 IAC 3.1-6-6, hereafter known as Rules Concerning the Exclusion of a Hazardous Waste from Regulation Under 329 IAC 3.1, Heritage Environmental Services, LLC, Delisting Electronic Arc Furnace Dust Rule. Chairperson Carter indicated that he would recuse himself from rulemaking action because Heritage Environmental Services does work for his firm.

The above rule is available for public inspection in the file room of the Office of Land Quality, 12<sup>th</sup> floor, Indiana Government Center North, Monday through Friday, 8:30 a.m. to 4:30 p.m. Instructions were given for those individuals who wanted to offer public testimony and the court reporter was affirmed.

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| <p>3. Chairperson Carter then opened the hearing to consider preliminary adoption of amendments to the rules concerning the Exclusion of Hazardous Waste From Regulation Under 329 IAC 3.1, Heritage Environmental Services, LLC, Delisting Electronic Arc Furnace Dust. He introduced Exhibit A, the draft rule, into the record and then asked Mr. Steve Mojonniier to address the Board.</p> | <p><b>PRELIMINARY ADOPTION<br/>EXCLUSION OF HAZARDOUS<br/>WASTE FROM REGULATION UNDER<br/>329 IAC 3.1, HERITAGE<br/>ENVIRONMENTAL SERVICES LLC,<br/>DELISTING ELECTRONIC ARC<br/>FURNACE DUST</b></p> |
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Mr. Mojonniier explained that electronic arc furnace dust, EPA hazardous waste code K061, is generated by Nucor Steel Corporation in Crawfordsville, Indiana. This new rule would exclude, or in other words, delist electronic arc furnace dust, from regulation as a hazardous waste. He said that Heritage Environmental Services would treat the waste to be nonhazardous and then dispose of the waste in a solid waste landfill permitted under 329 IAC 10, or a hazardous waste treatment, storage and disposal facility permitted under 329 IAC 3.1. Mr. Mojonniier provided background on how delisting works, the four

different types of delistings and discussed the public laws that require the Board to adopt rules for delisting hazardous wastes and also obtain EPA authorization for delisting. Mr. Mojonnier outlined the history of this specific delisting requested by Heritage Environmental Services and said that this rule proposes to exclude Nucor's treated electronic arc furnace dust from regulation as a hazardous waste provided the waste is treated to meet the delisting levels and is managed in accordance with the conditions in the rule. Mr. Mojonnier then described the changes and one correction to the rule that was originally distributed in the Board packet. Mr. Mojonnier concluded his remarks by recommending preliminary adoption of the rule as presented in Exhibit A. For a complete account of Mr. Mojonnier's remarks, please see pages 41 through 49 of the official transcript of this meeting.

Chairperson Carter then asked for Board discussion. Questions arose about the future of this procedure and how it had been handled in the past. Ms. Linda Cosgrove asked for more information about the computer modeling process and the possibility of having data sent to her. Mr. Craig Hogarth, Heritage Environmental Services, affirmed that Heritage would transport as well as dispose of the waste. Mr. Langbehn requested that representatives from Heritage Environmental Services be present at the next Board meeting, or prior to any further action on the rule to answer specific questions. A verbatim account of discussion is found on pages 49 through 59 of the official transcript of this meeting.

There being no further questions or discussion from the Board, Chairperson Carter asked for a motion to adopt Exhibit A as presented with changes. Mr. Langbehn so moved and Mr. Howard Cundiff seconded. The motion passed unanimously.

4. Chairperson Carter then continued with the agenda, indicating that there would be a presentation of a nonrule policy document (NPD) regarding Voluntary Remediation Program Community Relations Plan. The NPD is available for public inspection, comment and copying in the file room of the Office of Land Quality, 12<sup>th</sup> Floor, Indiana Government Center North, Monday through Friday, between the hours of 8:30 a.m., and 4:30 p.m. He then introduced Mr. Bruce Oertel of the Office of Land Quality, Remediation Services Branch.

Mr. Oertel said that the original NPD required the submittal of a proposed remediation work plan for IDEM approval. He explained that the NPD has been changed to broaden the scope of the community relations plan to initiate greater outreach to potentially affected community. Mr. Oertel explained that these changes were made as a result of community requests in 1999, where expanded public participation in the VRP process was requested. Mr. Oertel explained the basic components of the new community relation plan and details on how it functions. For a complete account of Mr. Oertel's remarks, please see pages 62 through 66 of the official transcript of this meeting. There was discussion about the NPD and enforcement action, the "covenant not to sue" and the signage issue and its potential stigma. For a complete account of discussion, please see

pages 66 through 76 of the official transcript of this meeting.

Chairperson Carter said that written comments should be sent, within the next 30 days, to Mary Beth Tuohy, Assistant Commissioner of the Office of Land Quality. While no formal written response will be provided by the department, if changes are made, the NPD will be presented again and placed in the file room for comment. He also said that this NPD will be effective 30 days from today's presentation, April 15, 2001.

Mr. Chuck Himes offered comment on the upcoming visit to Elkhart in October. He said that the facility that the Board will tour will be a recycling facility, where materials that have been predetermined to be recyclable are handled. He also announced that there will be a waste expo in Chicago at McCormick's Place on April 2<sup>nd</sup>.

5 Chairperson Carter adjourned the meeting at 2:51 p.m.

ADJOURNMENT

The next meeting will be April 17, 2001, at 1:30 p.m., in the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana 46204.

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CHAIRPERSON

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TECHNICAL SECRETARY